

### REMARKS

Claims 35, 37, and 42 have been amended. Claims 35, 37, and 42 have been rewritten to place it in better form for examination and to further obviate the 35 U.S.C. §§102, 103 and 112 rejections set forth in the Final Office Action dated January 15, 2003. Additionally, Applicant is submitting a marked up substitute specification and a clean copy of the substitute specification. Finally, attached is a Request for Continued Examination. It is believed that none of these amendments constitute new matter. Withdrawal of these rejections is requested.

The Examiner has objected to the substitute specification filed on October 3, 2002. Applicant has included a marked-up copy and a clean copy of the substitute specification. No new matter has been added with these amendments.

The Examiner has rejected claims 35-43 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claims 35, 37 and 42 are rejected for being drawn to a method of transforming a tissue of corn. Applicant has amended claims 35, 37 and 42 as suggested by the Examiner.

Claim 35 (c) and (e) are rejected as lacking antecedent basis. Applicant has amended claim 35.

Claims 38 and 43 remain rejected because of the term "gene". Applicant submits that a term "gene" is well known by persons of ordinary skill in the art.

Claim 42 remains rejected because the "heat shock treatment" conditions are unclear. Applicant submits "heat shock treatment" is well known by persons of ordinary skill in the art. Withdrawal of these rejections are respectfully requested.

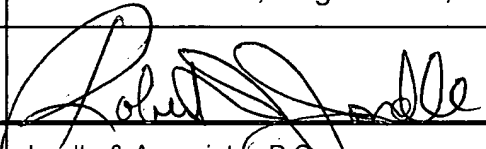
Claims 35-42 are rejected under 35 U.S.C. §112, first paragraph as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant submits that the term "genetic element" is well known by persons of ordinary skill in the art.

Accordingly, withdrawal of this rejection is respectfully requested.

Claims 35, 38, 39 and 40 remain rejected under 35 U.S.C. §102(e) as being anticipated by Hansen, G. (US Patent 6,162,965). Applicant submits that Hansen does not disclose or suggest using 15-21 degrees C temperature for co-cultivation with using Agrobacterium 1-2 days after rescue from glycerol stock, an antibiotic at 15-75 mcg/L and a plant growth medium comprising a monosaccharide. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 35, 36, 37, 38, 39, 40 and 41 remain rejected over Hansen, G. (US Patent 6,162,965), Bhojwani, SS et al. (Developments in Crop Science, vol. 5, pp 24-41, 198), Holton (US Patent 5,948,955) and Applicant's admitted prior art for reasons of record. Applicant submits that none of the references disclose or suggest the combination of using 15-21 degrees C temperature for co-cultivation with using Agrobacterium 1-2 days after rescue from glycerol stock, an antibiotic at 15-75 mcg/L and a plant growth medium comprising a monosaccharide. Accordingly, withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claim satisfies the provisions of 35 U.S.C. §§102, 103 and 112 and is not obvious over the prior art. Reconsideration of this application and early notice of allowance is requested.

RESPECTFULLY SUBMITTED,					
NAME AND REG. NUMBER	Robert J. Jondle, Reg. No. 33,915				
SIGNATURE				DATE	January 15, 2004
Address	Jondle & Associates P.C. Suite 200, 9085 East Mineral Circle				
City	Centennial	State	CO	Zip Code	80112
Country	U.S.A.	Telephone	303-799-6444	Fax	303-799-6898